

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

COLORQUICK, L.L.C.,

*Plaintiff,*

v.

VISTAPRINT LIMITED, and  
OFFICEMAX INCORPORATED,

*Defendants.*

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No. 6:09-CV-323

JURY DEMANDED

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**PATENT RULE 4-3 JOINT CLAIM CONSTRUCTION AND PREHEARING  
STATEMENT**

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Pursuant to Patent Rule 4-3 of the Rules of Practice for Patent Cases and the Court's Docket Control Order, Plaintiff ColorQuick, L.L.C. and Defendants Vistaprint Limited and OfficeMax Incorporated (collectively, "the parties") hereby submit this Joint Claim Construction and Pre-hearing Statement.

**(a) Claim Terms, Phrases, or Clauses for Which the Parties Have Reached  
Agreement Regarding Construction (P.R. 4-3(a))**

The constructions of the claim terms, phrases, or clauses on which the parties agree are set forth in Exhibit A to this Joint Statement.

**(b) Proposed Constructions of Disputed Claim Terms and Phrases and  
Identification of Intrinsic and Extrinsic Evidence (P.R. 4-3(b))**

The parties' intrinsic and extrinsic evidence in support of their proposed constructions and in opposition is set forth in Exhibit B to this Joint Statement.

**(c) Anticipated Length of Time Necessary for the Claim Construction Hearing (P.R. 4-3(c))**

There is only one disputed limitation. The parties agree that approximately one (1) hour will be needed for the Claim Construction Hearing.

**(d) Witnesses to be Called at the Claim Construction Hearing (P.R. 4-3(d)).**

The parties do not intend to rely on expert testimony at the Claim Construction Hearing.

**(e) Other Issues to be Taken Up at a Prehearing Conference Prior to the Claim Construction Hearing (P.R. 4-3(e)).**

The parties do not currently foresee any disputes in need of resolution at a Pre-Hearing Conference. The parties would be pleased to make themselves available at the Court's convenience should the Court believe that the Claim Construction Hearing would be facilitated by a Pre-Hearing Conference.

Dated: July 12, 2010

Respectfully submitted,

/s/ Justin B. Kimble

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-f(a)(3) on July 12, 2010.

/s/ Justin B. Kimble

Justin B. Kimble

### EXHIBIT A - AGREED CLAIM CONSTRUCTIONS

Claims	'149 Patent Claim Term or Phrase	Agreed Construction
1,2, 3,10, 25, 26, 27, 34	image display	a visual representation shown on a display screen
1,2, 3,4,10,12 25, 26, 27, 28, 34, 36	still image proxy	a still computer file, such as a JPEG, GIF, PNG or the like, that substitutes for the PDL image file
1, 2, 11, 25, 26, 35	PDL image file	a computer file containing page description language (PDL) code that defines the appearance of an electronic document when printed
1, 2, (3),25, 26, (27)	electronically manipulating	electronically modifying the appearance of the image display of the still image proxy, or electronically appending production specifications
1, 2, 25, 26	using the information about the manipulations to revise the PDL image file so as to match the PDL image file to the manipulations made to the image display of the still image proxy	using the information about the manipulations to revise the PDL image file with automated software so as to match the PDL image file to the manipulations made to the image display of the still image proxy
7, 31	dynamically creating	creating at run time

## EXHIBIT B – DISPUTED CLAIM CONSTRUCTIONS

Claims	'149 Patent Claim Term or Phrase	Plaintiff's Proposed Construction and Identification of Intrinsic and Extrinsic Evidence	Defendant's Proposed Construction and Identification of Intrinsic and Extrinsic Evidence
2, 7, 26, 31	static template	<p><b><u>Plaintiff's Construction:</u></b></p> <p>Plaintiff contends that this term does not require additional construction, as it has already been construed by this Court to mean:</p> <p><b>A template shown on a display screen that when set corresponds to a predetermined area in which the electronic document must fit, and is displayed in association with the image display of the still image proxy</b></p> <p><b><u>Intrinsic Evidence:</u></b></p> <p>The entire U.S. Patent No. 6,839,149 specification and prosecution history, <i>see, e.g.</i>, col. 4, ll. 1-20; col. 4, l. 54 – col. 5, l. 17; col. 5, ll. 18-22; col. 6, ll. 41-60; col. 9, ll. 23-37; col. 10, ll. 10-19; col. 11, ll. 39-45; col. 11, ll. 61-65; col. 12, ll. 28-30; figs. 7-13, 16, 17A-D, and 22.</p> <p><b><u>Extrinsic Support:</u></b></p> <p>Court's Memorandum Opinion &amp; Order, Dkt. 67, case 6:06-cv-00390-LED (June 25, 2008).</p>	<p><b><u>Defendant's Construction:</u></b></p> <p><b>A fixed template created at run time corresponding to a user-specified predetermined area in which the electronic document must fit, and is displayed in association with the image display of the still image proxy</b></p> <p><b><u>Intrinsic Evidence</u></b></p> <p>The entire U.S. Patent No. 6,839,149 specification and prosecution history, including, <i>e.g.</i>, col. 4:3-6; 5:43-50; 6:30-34; 6:51-59; 7:34-39; fig. 7.</p> <p><b><u>Extrinsic Evidence:</u></b></p> <p>“static: fixed, stationary.” American Heritage Dictionary of the English Language 1694 (4<sup>th</sup> ed. 2000).</p> <p>“static: characterized by a lack of movement, animation, or progression: standing or fixed in one place.” Merriam-Webster's Tenth Collegiate Dictionary 1149 (10<sup>th</sup> ed. 1996).</p>